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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/620,387

07/17/2003

Geoffrey Wehrman

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21171 7590 11/21/2006

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EXAMINER

ROSE, HELENE ROBERTA

ART UNIT

PAPER NUMBER

2163

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/620,387	WEHRMAN ET AL.	
	Examiner	Art Unit	
	Helene Rose	2163	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-12.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:
Arguments filed on 11/6/2006 - have been fully considered but are not persuasive.

Examiner would like to clarify applicant remarks in regards to when the amendment was filed. The response after non-final action was forwarded to Examiner on 6/2/2006, although the response after non-final action was filed on 5/24/2006.

Examiner respectfully disagrees wherein the applicant indicates on page 4 of remarks filed on 11/6/2006, wherein all the arguments filed on 5/24/2006. - Were addressed accordingly to which they were presented.

The preliminary amendments filed on 5/24/2006, indicates two arguments, which are specifically cited on page 5 (second and third paragraphs) that the prior art (Chan) fails to teach or suggest "anything is done during relocation of a metadata server"; and prior art (Chan) does not describe releasing or opening locks - also on page 5.

Responses to arguments were addressed accordingly to how they were presented, in which the response to arguments were directed to page 5, bottom paragraph (where the arguments were addressed).

Examiner also states on page 6, the third paragraph, does not state any arguments that relate to prior art does not teach or suggest or does not describe, and so forth. The paragraph only discusses what prior art describes (Chan), and also refers to the column and lines within (Chan) reference, explaining the difference between the prior art invention and application being examined invention, which is not considered to be an argument.

Examiner states that all arguments made to prior art of record, must be specified as to wherein it clearly states: prior art fails to teach, suggest, disclose, and does not describe are considered to be "clearly defining the prior art over the application being examined.

Applicant states, all arguments were not addressed - Examiner states, the argument being argued (not addressed) was not "clearly stated" NOR "pointed out" NOR "defined" to the examiner.

The prior art argued that failed to teach certain limitations, are listed below:

1. Applicant argues/states the prior art fails to teach, "anything that is done during relocation of a metadata server"

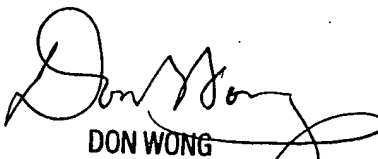
Examiner respectfully disagrees. Referring to column 11, lines 35-41, wherein one message can hold the lock information for one resource being moved from an old master node to a new master node, wherein metadata server is interpreted to be moving from one node to another due to administrative actions, column 5, lines 28-34, wherein when the system is eventually reconfigured, for example when one of the original nodes goes down, a great deal of message traffic must be passed to move data from the old master resource locking objects, i.e., hereinafter RLOs, to the new masters RLOs on both the added nodes and the original nodes.

2. Applicant argues/states the prior art fails to teach, "releasing or opening locks"

Examiner respectfully disagrees. Referring to column 2, lines 55-60, wherein if the requested lock is not consistent with the granted lock, such as when both are exclusive locks for the same resource, as is typical during writes to a database, then the requestor, as is typical during writes to a database, then the requestor must wait until the database server holding the granted lock releases the granted lock, wherein releases the granted lock is equivalent to opening locks.

However, Examiner clarifies the oversight regarding the office action date 8/4/2006, wherein its asserted, "applicants amendment is necessitated the new grounds of rejection, wherein there were no new grounds of rejection presented.

Therefore, the final rejection is maintained as in the Final Office Action mailed on 8/4/2006, wherein all arguments by Chan were addressed accordingly.


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